

## BURLINGTON



## DEPARTMENT

585 Pine Street • Burlington, Vermont 05401-4891  
802/658-0300 • 802/865-7386 (TTY/voice) • Fax: 802/865-7400

To: EEU E-mail Service List

From: Tom Buckley

Re: Comments on EEU structure

Date: September 12, 2007

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BED appreciates the opportunity to weigh in regarding the current opportunity created by the Public Service Board to restructure the energy efficiency utility. The timing for a course correction seems very appropriate based on the input of the many parties to this process. In response to the PSB's memorandum of September 5<sup>th</sup>, "Next Steps for EEU Structure Working Group", BED offers the following elements that might be considered in regards to this effort. Few of these are firm opinions being advanced, nor have they undergone any kind of legal vetting. BED offers them in the spirit of "brainstorming" to the working group for its consideration going forward.

### **Regulatory structure:**

First, BED is intrigued by the concept of the provision of service under a "license", earned through a CPG-like process, but with a term long enough to address many of the issues raised by the 3 year term of the current contract structure. The 11-year term suggested at one point by the board would offer an adequately long period to assure financial viability and fit within many typical planning horizons, but still keep a "sunset" provision in place, requiring that the EEU work toward a "license renewal" at a known point in the future. The appropriate length for such a license seems like a very good topic for work group deliberation.

Whether or not this is called a "franchise", a more "utility-like" relationship among the Board, the EEU, and electric utilities could be a valuable direction in which to move. Regulated utilities, whether under traditional or alternative rate-making paradigms, have developed a balance between independence and accountability that offers a good, easily examined model.

The rate adjustment process that regulated utilities undergo offers the opportunity for detailed scrutiny by regulators. Although it would require considerable further thought, the EEU budget-setting process could perhaps be managed very much the way a revenue

adjustment filing is for regulated utilities. Whether annual or cyclical, such a mechanism could offer regulators an opportunity to review costs incurred for prudence at whatever level of detail was deemed appropriate. This might engender changes to the current routine reporting requirements that could address some of the “accountability” concerns that have arisen during this process.

Some utilities have put “performance-based” alternative regulation into place which may offer a model, or at least a starting point, for a migration of the type of performance basis currently in the VEIC contract. Even in the more traditional ratemaking paradigm, all utilities are held to a “Service Quality & Reliability Performance” agreement. Such a mechanism or similar could outline the minimum performance criteria necessary for the EEU to maintain its license during the term.

### **PSB/EEU relationship**

The suggested relationship would help to address problems raised concerning the relationship of the Board and the EEU. Arguably, the current “master-servant” relationship is unprecedented for the PSB, and has led to some awkwardness at times. For this to evolve to a more “utility-like” relationship would advance numerous goals put forward by the PSB. First, it could strengthen the Board’s role as “quasi-judicial” in the relationship and make the EEU oversight less unique than it is today. As such, it would allow the Board to use a more familiar and tested set of tools in judging the EEU rebuilding effort and the restructured entity going forward. It would clarify and “familiarize” the roles of each party in public venues and in testimony, in particular before the legislature. It would deliver similar benefits to the EEU. It could allow the EEU an independent voice, similar to the utilities, in the legislative and regulatory processes.

### **Governance**

Since its inception, the PSB has sponsored an advisory council for the EEU, a broad-based group of individuals whose interests are affected by the EEU, and who regularly advise both parties on policy direction. To date it has not always had a clear role in the EEU process. With increased independence from the PSB, it is worth considering whether or not this group, or another with a similar constitution, might be invested with a degree of governing authority. This could further reinforce the Board’s independence from the EEU management process, and afford the EEU staff an opportunity to obtain policy guidance somewhat independent of the regulatory process.

### **Program Financing**

The potential benefits of independence of the EEU from the PSB may extend beyond public communication and opportunities for broader-based governance. Financing of energy efficiency programs has been a recurring theme over the EEU’s lifetime. One might expect that EEU status as a licensed and regulated entity with a designated term would make it a better-recognized entity in any relationships with the financing community. Whether or not the EEU constitutes a revenue stream that could be leveraged to obtain low-cost financing is an area which could be explored further. It seems logical that the more “utility-like” the EEU structure, the more likely that the EEU itself could secure this type of financing.

## **Roles & Responsibilities**

BED thinks it is extremely important to revisit and reconfirm the roles and responsibilities for energy efficiency that were carefully assigned during the Docket 5980 proceeding. This restructuring provides the opportunity to modernize and clarify the responsibility for energy efficiency planning, program design, program implementation and monitoring and evaluation (M&E, sometimes called monitoring and verification, or M&V). The need for this has sharpened with the start-up of the ISO Forward Capacity Market DSM mechanism, the expansion of statewide transmission planning to consider energy efficiency alternatives, and other changes that have taken place within the energy efficiency environment since that order was written. Of the above topics, only program design and the majority of implementation responsibility clearly falls today to the EEU itself. Currently some element of responsibility for energy efficiency planning and all of the responsibility for evaluation fall to the DPS. For the most part, this seems like a very reasonable division of labor. However, it will be very worthwhile to condense out the relevant portions of the 5980 Order, evaluate in detail whether or not the needs for each function have evolved, to what extent and in what direction, and then to either re-commission or revise and reassign these roles as appropriate for the revised EEU structure.

## **Private Sector Involvement**

Division of labor is also linked to a theme that has been recurring throughout this deliberation and throughout the lifetime of the EEU: its relationship to the private sector in the delivery of efficiency services. There is undeniably a perception in the professional energy services community that the EEU monopolizes much activity that could be competitively served. This restructuring offers the opportunity to examine any of the 4 functional areas outlined above to see whether or not existing market expertise is being adequately mined, or if the EEU, the DPS, or any others are creating monopolistic mechanisms that supplant otherwise available services. BED feels this look should not be limited simply to the installation of end-use energy efficiency, but should encompass all areas of the endeavor. This scrutiny on an ongoing basis could be facilitated by the regulatory relationship suggested in this document, and could be supported by EEU performance requirements in this area.

BED appreciates the chance to weigh in on this important topic. As was mentioned in the initial workshop, once a direction for change begins to emerge more clearly from this process, BED will weigh in regarding the impact these changes may have on its provision of efficiency services to Burlington consumers, and suggest modifications to the current mechanism if appropriate.